IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 249 OF 2002.

1. Maria de Conceicao Angelica Fernandes e Gonsalves,
2. Mrs. Maria Helena Isabel Fernandes,
both r/o H. No. E8-83, Alto Mapusa, through their Power of Attorney Holder Shri Francis Fernandes, r/o 2nd Floor, Shaleem, Bldg., Khorlim, Mapusa. ... Petitioners.

Versus

1. Mrs. Sandra Fernandes,
2. Mast. Shelton Benjamin Fernandes, through his natural guardian the respondent no. 1,
both r/o H. No. 84, Altinho, Mapusa.
3. First Addl. Civil Judge, Junior Division, Mapusa.
4. Additional District Judge, Mapusa. ... Respondents.

Mr. V.R. Tamba, Advocate for the Petitioners.

Mr. P.A. Kamat, Advocate for the Respondents 1 and 2.

Coram: P.V. HARDAS, J.

Date: 13th February 2003.

ORAL ORDER.

This petition has been filed against the Order of the learned Additional District Judge, Mapusa, dated 25th July 2002, allowing the appeal filed by the present respondents. The learned trial Court, by its Order, dated 15th January 2000, had decided Civil Miscellaneous Application No. 296/1998/Ist-Addl. and Civil Miscellaneous Application No. 384/1998/Ist-Addl. in Regular Civil Suit No. 208/1998/Ist-Addl.. Civil

Miscellaneous Application No. 384/1998/Ist-Addl. had been filed by the present respondents/defendants and Civil Miscellaneous Application No. 296/1998/Ist-Addl. had been filed by the present petitioners/plaintiffs. The learned trial Court, by its common Order, dated 15th January 2000, had partly allowed the aforesaid two applications and had restrained the respondents/defendants from temporarily transferring or alienating by way of sale or otherwise the suit property and the house. This Order was challenged by both, the present petitioners and the present respondents. The other Order of the learned trial Court restraining the petitioners/plaintiffs from disturbing the possession of the respondents/defendants of the suit house without following due process of law, was not challenged. The present petitioners have in the present petition impugned the Judgment of the learned lower appellate Court, dated 25th July 2002, rendered in Miscellaneous Civil Appeal No. 20 of 2000, which had been filed by the present respondents/defendants. The learned lower appellate Court had allowed the appeal and the Order against the respondents/defendants came to be quashed.

2. After hearing the learned counsel for the parties for some time, Mr. Kamat, the learned counsel appearing on behalf of the respondents/defendants, states, on instructions, that the respondents/defendants

would not transfer or alienate by way of sale the suit property and house till the decision of the suit. This statement is accepted as an undertaking given to this Court. In view of this statement, Mr. Tamba, the learned counsel appearing on behalf of the petitioners/plaintiffs, states that the grievance of the present petitioners/plaintiffs is satisfied. It is needless to add that the Order of the learned trial Court, by which the petitioners/plaintiffs have been restrained temporarily from disturbing the possession of the respondents in the suit house, has not been challenged.

3. In view of this, the Writ Petition is disposed of with no order as to costs.

(P.V. HARDAS)
JUDGE.

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